

# Draft OSWER Tribal Strategy: Summary of Tribal Comments

The Office of Solid Waste and Emergency Response (OSWER) is seeking to develop a dynamic tribal strategy which clearly communicates intended actions by OSWER's tribal program, and lays out an effective approach for how OSWER may achieve EPA's Strategic Plan goals in Indian country. The formal comments period for the draft OSWER Tribal Strategy ended on May 16, 2008, however OSWER will accept late comments on the draft strategy through July 11, 2008. OSWER will review each comment and revise the draft strategy as appropriate. OSWER expects to release a final strategy in the Fall of 2008.

## List of Commenters

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OSWER received comments from eleven commenters. The commenters are: The Hualapai Nation, Wyandotte Nation, Leech Lake Band of Ojibwe, Salt river Pima-Maricopa Indian Community, Ysleta del Sur Pueblo, Eight Northern Indian Pueblos Council, Santa Clara Pueblo, Tribal Practitioner verbal comments, EPA Region 4 as Indian Program Lead Region, EPA Region 6 Tribal Assistance Program.

## Summary of Comments

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Overall the document is well written and considers the needs of Tribal Government.

Coordinate outreach planning. OSWER intends to evaluate its current efforts to reach out to tribes and identify opportunities to integrate and better coordinate its outreach efforts across programs.

Comment: Members of the region 9 solid waste work group should emphasize importance and opportunities for tribes in their involvement.

Identify opportunities across OSWER's programs to increase the use of Direct Implementation Tribal Cooperative Agreements (DITCAs) and circuit riders.

Comment: OSWER appears to place a lot of emphasis on circuit riders. Caution should be taken in this area and circuit riders should be only for a specified short duration with the focus of their involvement in assisting tribes to acquire DITCAs.

Promote opportunities for raising cultural awareness within OSWER; OSWER intends to encourage all staff and managers to participate in the Working Effectively with Tribal Governments (WETG) training (available through the internet or in the classroom).

Comment: A good idea for headquarter representatives and regions with few tribes. This training should also be extended to other federal, state and local agencies that may have service involvement with tribal governments.

Improve OSWER tribal data systems.

Comment: A way to improve would be to look at tribal accomplishments in other media programs that may provide another layer of data, because there seems to be overlaps of the different media and their responsibilities.

Strengthen federal agency partnerships on solid waste management.

Comment: Review and compare Tribal Solid Waste Interagency Workgroup to other interagency work groups, like the drinking water/waste water work group to capture best practices and approaches from each other as well as other established entities similar in nature.

## Summary

It's important to note that this OSWER Tribal Strategy is the guiding document used by EPA OSWER programs during the implementation of the EPA Strategic Plan and the Administrator's and OSWER's Action Plan. It's an internal EPA document. Success for tribes as defined in this document is limited completely by funding and by the way the goals are measured. This document should not be utilized to circumvent Government-to-Government consultation as is EPA's federal trust responsibility.

General comment: Add a list of acronyms.

### 1. OSWER-wide (IPCO)

*Ensure appropriate consultation and communication with tribes in all OSWER programs. Strategies to Achieve these Outcomes (Shorter-term Goals): Pg. 13*

OSWER ~~intends~~ **will** ensure that tribes are engaged in policy discussions as early as practicable and that tribal concerns are ~~considered~~ **incorporated** as EPA develops and implements nation policies and decisions

Build Tribal Capacity.

*This is a good goal but one that is extremely limited by funding. There is only minimal funding or no funding levels at all for some of OSWER programs. There is not enough specific training or technical assistance available to tribes.*

*Facilitate communication, coordination and cooperation within EPA on tribal issues and cultural awareness.*

### **Activities to Implement these Strategies: Pg. 14**

(First paragraph) The framework would also promote information exchange on OWER program actions, encourage cross-program efficiencies, and facilitate capacity building of tribal waste, **source reduction and recycling programs**.

Second paragraph: RTOC –

*SPRMIC prefers direct communication with the EPA. Although RTOC may be a venue used by EPA to disseminate information, it should always provide direct information to each Tribe.*

*Establish and maintain an OSWER Tribal Programs website.*

*Website should also post solid waste/recycling training opportunities*

*Coordinate outreach planning.*

OSWER intends to evaluate its current outreach efforts to reach out to tribes and identify opportunities to integrate and better will coordinate its outreach efforts across programs.

*How will OSWER evaluate outreach planning and will Tribes be able provide comments on evaluation?*

*Identify opportunities across OSWER's programs to increase the use of Direct Implementation Tribal Cooperative Agreements (DITCA's) and circuit riders.*

*OSWER should review tribal DITCA's from other media to determine the best approach for implementation (the Nez Perce Tribe located in Region 10 has a smoke management DITCA). Region 10 also has a Pesticide Circuit Rider that has federal credentials and works with the tribes in WA, OR and ID that responds to FIFRA related complaints would be good to draw from those experiences*

*Increase education to EPA staff and Tribes on the intent and goals of DITCA. Availability of DITCA should be readily accessible to Tribes that are interested in this process.*

*Promote opportunities for raising cultural awareness within OSWER.*

*Field trips should be taken to actual Tribal sites. Over the years, each region should be visited to allow EPA staff to better understand the unique and vast diversity among Tribes.*

Page 15:

*Increase the level of understanding of the concept of risk and clarify EPA's approach to risk in Indian Country.*

*It is important for EPA to understand the tribal specific situations and cultural traditions that may affect risk. EPA staff should be trained effectively on risk communication. Additionally this training should also be made available to Tribes.*

*Improve OSWER tribal data systems.*

Ensure that codes used to delineate tribal data exist and establish program-specific guidance for regions so that data fields are populated consistently.

*How will this be accomplished? Will there be QA/QC checks are there SOP and Quality Assurance Project Plans? Is the data defensible?*

*Will Tribes be able to access data system to review and confirm accuracy of data maintained within as it may relate to their specific tribe or regionally?*

*Explore ways to measure the effectiveness of EPA's outreach, consultation, and communication efforts with Tribes.*

*This seems redundant similar to the short term goals on pg.13 - maybe all three goals could potentially be combined*

Ensure appropriate consultation and communication with tribes in all OSWER programs, Facilitate communication, coordination and cooperation within EPA on tribal issues and cultural awareness

*The “measure of effectiveness of OSWER communication activities” should be completed nationwide and regionally. Will Tribes be able to evaluate OSWER’s communication activities? How?*

*Increase headquarters’ participation in regional tribal meetings.*

*This strategy could be combined with the RTOC goal (2<sup>nd</sup> paragraph pg. 14)*

*OSWER should not solely utilize RTOC/NTOC meetings as tribal meeting participation; they should attend Regional conferences and make an effort to meet with Tribes in each region.*

*Ensure that Tribes are able to provide ongoing input into OSWER policies to consider climate change effort.*

*EPA must be consider that specific concerns of climate change as it relates to traditional values and culture for tribes should also be incorporated into the policy, especially in regard to clean up and waste management programs.*

Indicators to Track:

- number of headquarters staff participating at RTOC meetings
  - survey tribes about efficiency of communication with OSWER before and after (tribal feedback instead of #'s only)
  - provide comparison of progress tribes vs. national (ex. pg 28 Goal 3.1.2)
  - % of OSWER staff that have completed the WETG Training
- Indicators should track long term internal statistics to ensure that all staff within OSWER have completed the training so that when staff change over occurs, new staff can be immediately trained.*

- *Number of tribal circuit riders in all OSWER programs.*

*A method to allow for a Tribal evaluation on the usefulness of the circuit rider including commenting on the progress of circuit rider to achieve goals is needed. EPA must make effort to keep Tribal dialogue open and not rely on circuit rider for all tribal information and input.*

## 2. Solid and Hazardous Waste

Page 16.

*Funding associated with this goal is limited and Tribes must compete to secure the few grant programs offered under this program. The need is so great in Indian Country that the funding limits the progress of cleanup efforts. Tribes must have an opportunity to review and verify data collected and stored regarding solid and hazardous waste on tribal lands by federal agencies, including an opportunity to correct any data discrepancies.*

First paragraph, pg. 17, second bullet: What does “upgrade open dump mean”. A footnote or brief explanation would be helpful.

*“..strengthen federal agency partnerships to take a more holistic approach to waste management.”*

*Enhance cross agency Federal communication internally at the headquarters and regional levels, and especially at the local level.*

*Work with IHS Division of Sanitation Facilities Construction (DFSC), to update the web Sanitation Tracking and Reporting System (wSTARS), specifically the Operation and Maintenance Data System (OMDS) database.*

*Provide opportunities for Tribes to review database information to confirm accuracy of reporting. Increase training to Tribes to understand definition of “open dumps” as tracked in this database.*

*Support integrated waste management training.*

Training options that EPA intends analyze include partnering with other federal agencies, external tribal associations organizations

*The training should be tribally relevant and EPA should consider on-line training, as an option, for those unable to attend training or is a hardship to travel.*

#### **Performance Measures: (pg.19)**

#### **3. Superfund**

Using CERCLA authorities, the tribal priorities of EPA’s Superfund Remedial office are:

- to improve data integrity, collection, quality control and quality assurance on Superfund sites in Indian country
- to provide, within available resources, opportunities to increase involvement of tribes in the Superfund Remedial program

First paragraph pg. 21

Effective implementation and collaboration on actions that are beneficial to improving public health and the environment in Indian country.

*Increase number of tribes involved in Superfund cooperative agreements with adequate funding. Allow Tribes to review documents and database maintained regarding Superfund.*

#### **Activities to Implement these Strategies:**

Paragraph 4 (pg.21): This is a concise paragraph clearly stated strategies.

*Continue to share information among regions about ways to improve the effectiveness of EPA’s tribal efforts.*  
(pg.22)

*An annual summary report available to Tribes to evaluate success or provide input would assist EPA in information sharing.*

#### **Indicators to Track:**

- Documentation of the incorporation of tribal lifeways HRS guidance
- Documentation of consultation with tribal governments (method used and number of tribes consulted)

#### **4. Brownfields**

Page 24

*Continue to provide funding to tribes through section 128(a) grants for tribal response programs and 104(K) competitive grants for assessment, revolving loan fund, cleanup, and job training, and research, training and technical assistance, subject to the availability of funds. Continue regional Targeted Brownfields Assessment of sites identified by tribes, upon request by Tribes, as resources allows.*

*Increase direct outreach to Tribes on the Brownfields program opportunities.*

*Provide funding and technical assistance over a three-year project period to support the development of a train-the-trainer- program for tribal response programs.*

*This should be nationwide and be accessible to all interested Tribes. Information about the status of this project should be made available to tribes at least once annually. Tribes should have the opportunity to evaluate the success of the project and have an avenue to report concerns to EPA during the three-year period.*

*Improve support for tribal participation and achievement in Brownfields.*

*EPA Regional tribal conferences, National Tribal Environmental Council Annual Conference, NCAI, and direct tribal visits.*

Last paragraph on pg. 24

*Include a footnote that explains AAI rule.*

Page 25Second line from the top: insert at end of sentence- as may be applicable.: opportunities to support tribes in implementing this rule, as may be applicable.

Indicators:

*Indicate number of Tribes applying for each grant and how many were awarded/actually funded.*

#### **5. Underground Storage Tanks (USTs)**

*Land and water are protected from underground storage tank releases in Indian country.*

First paragraph (pg. 26) Tribes also play a significant role in helping to prevent and clean up UST releases.

*How have tribes assisted in prevention of UST releases? Provide a couple of successful examples.*

Continue LUST cleanup in Indian Country.

*Increase funding to Tribes and also technical guidance and training as requested.*

Continue to provide assistance to tribes and UST owners and operators regarding release detection and prevention requirements.

*What type of technical assistance was provided for 2008 and what is being planned for the upcoming fiscal year?*

*Due to limited EPA funding this assistance is often not readily available because of time constraints and accessibility of Tribal lands.*

Continue to allocate part of EPA's LUST trust fund appropriate.....

*EPA should consider and take into account the traditional and cultural value of tribal lands for priority cleanup.*

#### **Performance Measures: (pg. 28)**

##### **Other indicators to track:**

- Total number of inspections completed by tribal staff
  - List of training opportunities and certification process
- Tribal review of the training and certification should be sought out.*

#### **6. Emergency Management**

*EPA's role in emergency management is very little and more in an advisory training support capacity. EPA's role has been refined further by changes in FEMA and Homeland Security. Although Strategies 6 & 7 are long standing objectives improvements can be made in communication methods with all Tribes on these activities. In addition to communicating with Tribal emergency services departments (police and fire), EPA must communicate with Tribal leaders and tribal environmental professionals as well.*

*In the first paragraph, there is mention of EPCRA provisions; it might be useful to add a footnote at the bottom the page with brief description of EPCRA as it was last mentioned on pg. 3 of the draft document*

Page 30.

Collect additional data on emergency management activities in Indian Country.

*How will tracking efforts be achieved? Will Tribes be able to access data to verify information? Will there be mechanisms for changing information?*

Establish regular communication among EPA staff and tribes.

*EPA should to provide periodic updates to Tribal leaders and tribal Communities.*

*Increase tribal participation in training.*

Page 31.

*Strengthen relations with FEMA, DHS and DOT.*

*EPA should enhance its ability to communicate with Tribes by improving coordination with other federal agencies that work with Tribes on emergency management. This should be completed the national, regional and local levels. EPA might consider training nontribal agencies regarding tribal government and protocols when dealing with Tribes during emergency management situations.*

**Indicators to track:**

- Number of tribal emergency response plans completed
- Number of tribal trainings held

**7. Federal Facilities Restoration and Reuse**

Page 33.

*Improve data quality of BRAC and Superfund federal facilities in Indian Country.*

*Provide training or information dissemination to Tribes on how they can access this information. If any tribal data is on the database, Tribes should have an opportunity to verify the information.*

**Indicators to track:**

- Percent of tribal involvement in advisory boards and community groups and munitions workgroups and other response efforts
- Documentation of improved data for BRAC and Superfund facilities

**Page 13: OSWER-wide (IPCO)**

Throughout the document, outreach efforts to Indian nations are discussed. The term outreach implies that the EPA will be imparting knowledge to the tribes. This is definitely a necessary exchange; however, I feel that it is important to reflect in a document such as this that Indian nations possess a significant amount of knowledge that has been obtained over hundreds of years in these areas in which they live. Therefore, there is much that EPA can be informed of by tribes. This is even more evident, as we are continually discovering that “western” science and development does not have all of the answers. I would like to see more of a dialogue reflected in this document, as opposed to the one-way conversation the document reflects right now.

**Page 14, fifth paragraph: Circuit riders**

The circuit rider position in Region 6 is virtually non-existent; the duties performed by the person in this position are vague and of little assistance to tribes. If there are EPA regions with successful circuit rider positions, EPA oversight should ensure the position is performing in the desired way in all regions. Otherwise, at least in Region



6, I feel the money would be better spent by enhancing the GAP funding or providing Project Officers the opportunity to make site visits to the tribes they work with.

**Page 14, sixth paragraph: Cultural Awareness within OSWER**

I recommend requiring in-class training for the Working Effectively with Tribal Governments course. Web training is not effective for an issue as critical as this; it is too easy to skim through the material and/or copy test questions from co-workers. Employees of EPA should be required to take a classroom course (preferably developed with tribal input and conducted with tribal assistance) on working with tribes. Additionally, project officer visits to tribal sites will enhance the project officer's effectiveness in working with the tribe, as well as assisting the tribe in developing the program required by that particular tribal nation.

**Page 15, first full paragraph: Concept of Risk**

Tribal input should be a part of the development of any risk training course. Often, tribes and EPA view risks differently, as is reflected in the statement that there are different ways people look at risk.

**Page 15, fourth and fifth full paragraphs: HQ participation in regional tribal meetings & tribal input on climate change policies**

This is an excellent goal to strive for. This will increase understanding for everyone involved and result in more effective policies and environmental protection.

**Page 15: Indicators to Track**

How will OSWER measure the effectiveness of the training? It is one thing to measure the number of employees taking the training, but that does not guarantee that the training was effective. I recommend coming up with an indicator to track effectiveness.

**Page 17: Bulleted priority areas**

Recycling and prevention should be included in the priority areas. These are two key components that will minimize the need for clean up of open dumps, in addition to minimizing the space needed for new solid and hazardous waste sites.

**Page 17: Enhance partnerships to close, clean up, or upgrade open dumps**

This is a great idea. It needs to be coordinated in a way that will be useful to tribes. For example, instead of just listing the agencies that deal with closing, cleaning up and upgrading open dumps, a useful tool would be examples of how to utilize these agencies and the funding at different steps in the process to compliment the desired end goal.

**Page 18, second full paragraph**

The additional cooperation, coordination and accountability among federal agencies are great goals and would be very useful to tribes. Please pursue this vigorously.

#### **Page 19: Performance Measures**

Including a measure to track the federal partnership that are developed and maintained effectively would be useful. Often, agencies have a partnership on paper that is not effective in reality.

#### **Page 21, second and sixth full paragraphs**

Excellent. Integration of tribal perspectives in the remediation process, as well as considering tribal cultural impacts in the characterization of risks are much needed. Culture and environment are inseparable concepts for Indian nations.

#### **Page 24, third full paragraph: Improve support for tribal participation and achievement in Brownfields**

The tribe I work for has a Brownfields Assessment (Hazardous) grant. We have not received much support that is focused on tribal participation and needs. Obviously, we do not have the same resources as city and states, but we are lumped together at the regional partner's forum and many of the conferences. Enhancing the support for tribes in the Brownfields program is a necessary step in order for tribes to be successful throughout the Brownfields process (from assessment to redevelopment).

#### **Page 29: Strategies to Achieve these Outcomes**

Cooperation with the Department of Homeland Security is most likely necessary. The Ysleta del Sur Pueblo's Emergency Management Department is funded solely by DHS. DHS likely has quite a few of the statistics EPA is interested in generating. Coordination between the federal agencies is essential to the Emergency Management OSWER program.

#### **General Comment:**

Many American Indian nations have ties to lands that they no longer own. EPA should be aware of this when addressing Superfund sites and soliciting input on these properties. These nations have an interest and a cultural tie to the land and should be included as such.

Page 9 – The two strategic targets, for 2011, outlined on the bottom of the page seem quite modest considering several Tribes have developed, or are developing IWMPs or SWMPs.

Page 10 – Part V, first bullet point - While it is necessary to help build “tribe’s capacity to implement environmental programs and removing barriers for tribal program implementation” it is unclear how this will be done. Tribes find the biggest barrier to implementing and maintaining a tribal solid waste program is the lack of adequate funding through either OSWER or the IGAP.

Page 12 – Second paragraph. What is the purpose of continuing to improve how EPA can capture the progress of tribal capacity building? What would seem more important is how many Tribes are implementing and maintaining viable Tribal Solid Waste Programs.

Page 12 – Last Paragraph – This may be one of the most important aspects in the strategy if it can be done. Tribes are continually seeking methods to leverage and coordinate activities, but funding remains the key. Programs

within EPA, and other federal agencies, need to coordinate in an effort to help understaffed tribal programs with limited resources.

Page 14 – First Paragraph – While it is commendable OSWER has developed ideas on how to receive tribal input there appears to be limited consideration for working with NTEC and NCAI. Engagement of Tribal Leaders in development of the dynamic living document is very important.

Page 14 – Fifth Paragraph – While DITCAs may be an important tool in Indian Country, the lack of use of DITCAs, in the past, by Tribes, may be a result of EPA presenting them as tools for “tribes to assist EPA” rather than an opportunity for Tribes and EPA to partner.

Page 14 – Last Paragraph – It may not be enough to “encourage” staff and managers who work with Tribes to attend WETG training, it should be mandatory. Also, the best way to get to know how Tribes get things done is to visit tribal programs on tribal lands. As staff and Managers attend Regional Tribal Operations Committee meetings, these visits should coincide with RTOC meetings in Indian Country. Unfortunately, a trip to the American Indian Museum will do little to raise cultural sensitivity.

Page 15 – First Paragraph – It would benefit the OSWER to work with the Tribal Science Council as they continue to evaluate and define Tribal Risk Assessment. This would be the best benefit, both fiscal and programmatic, to Tribes and to the OSWER Strategy.

Page 15 – Third Paragraph – will the ways to measure effectiveness be from a tribal viewpoint or an EPA viewpoint? Perhaps it could be both. Often, what EPA perceives as effective outreach, communication, and, especially consultation, is perceived entirely different by Tribes. If the contractor, whose work IPCO intends to build on, does not understand this concept, then the work will have to start anew.

Page 15 - Indicators to Track, first bullet – Completion of the WETG training is one thing, understanding the training is another concept entirely. What tracks success?

Page 16 – Desired Environmental Outcomes - There may be a bullet added to provide technical assistance for the proper disposal of construction and demolition waste.

Page 17 – First Paragraph – For Tribes to improve waste management and disposal practices and achieve sustainable programs, there needs to be adequate follow-up, by EPA, on actions supporting closing, clean-up, or upgrades to open dumps, and sustainable funding for programs.

Page 18 – Fourth Paragraph – IHS has had several years to work with EPA and Tribes to keep the OMDS database updated. This has not always been an effective tool for Tribes, and, in many cases, the database has proved useless. EPA may want to consider having the database turned over to National and/or Regional Tribal organizations and Intertribal Consortia to collect, update, and track data. It will be more cost-effective.

Page 18 – Fifth Paragraph – The draft document is not final yet and already OSWER has partnered with IHS, to hire a contractor, to provide integrated waste management training. See comment above.

Page 19 – First Paragraph – While Circuit Riders have proven to be cost effective, have they been effective and useful to Tribes overall?

Page 20 – No. 3 Superfund – Will the Tribal Superfund Group be reconvened?

Page 27 – Fifth Paragraph – A 3% allocation of EPA’s trust fund for LUST clean-up is not adequate considering the number of abandoned LUSTs on Tribal Lands and the fact Tribes, generally, do not have access to state LUST trust funds.

Page 28 – Goal 3.2.2 – Shouldn’t the goal be to increase the number of LUST clean-ups in Indian Country to reduce sites which exceed risk based standards? Also, the number of clean-ups is actually the same (30 clean-ups per year) for years 2007 – 2011. Isn’t then the goal to reduce the number of LUST sites in Indian Country which exceed risk-based standards?

Page 29 – *Increase tribal awareness of emergency planning and prevention.* - The activities to achieve this strategy aren’t exactly clear on how this will be done.

Page 30 – First Paragraph – It is unclear how Tribes can increase Capacity to develop oil spill prevention and awareness if there are not AST or other programs, or funds, to provide technical assistance or long term sustainability.

Page 30 – Second Paragraph – The collection of data on emergency management activities in Indian Country does not assure if, or make clear how, Tribes can develop Emergency Management Programs.

Page 31 – First Paragraph – EPA can also enhance coordination through the use of State, County, and local government systems and programs which the federal government may not provide.

Page 35 – Goal/Objective 3.1 – This is not really a Tribal Capacity building indicator/activity since Tribes will be inspecting on behalf of the federal government. It may be considered, however, a tribal environmental outcome.

Page 35 – Entire Table – There are definitely more capacity building activities when tribal environmental outcomes are so important. The table requires a re-examination in order to better investigate what is capacity building and what isn’t.

Page 6: Development of Tribal Strategy should be structured and developed with EPA trust responsibility as a foundation.

Page 13, 4<sup>th</sup> paragraph: An added component to “facilitate communication, coordination and cooperation within EPA on tribal issues” would be to encourage continuity within regions regarding program administration with maximum flexibility for all activities.

Page 14, 2<sup>nd</sup> paragraph: taking the extra step in get input from the RTOC’s is an excellent step and needs to happen on a regular basis.

Page 21, 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> paragraphs: OSWER should examine, with tribes, the effectiveness of these excellent first steps in enhancing tribal involvement with the superfund remedial process and discuss and implement additional strategies that build upon these initial efforts.

Page 22, 1<sup>st</sup> paragraph: The Tribal Superfund Workgroup should be reestablished and convened at the minimum twice a year. This would give the Superfund Tribal Forum a better understanding of Superfund issues in Indian Country. Participation into the forum by tribal led group would provide the direct information needed to gain a realistic picture of Superfund issues. The Tribal Superfund Workgroup would also be able to provide input into all the strategies proposed by OSWER to enhance the tribal role in Superfund. In addition to this role of helping OSWER, Tribal Superfund Workgroup meetings also serve as mentoring sessions to tribes new to the Superfund process. This was evident in past meetings as the tribal interaction was able to increase tribal capacity in Superfund exponentially.

Thanks to EPA OSWER for putting together this draft Tribal Strategy. We find many good initiatives contained within and choose to offer the following comments and suggestions regarding this document. Our comments and suggestions refer to specific document sections and pages, following the format in which the document is printed.

- Comment 1. Section IV, page 7 addressing the five major goals: It is good to see the words “environmental stewardship” used in goal 5. Some may argue, and we among them, that environmental stewardship should be added to each goal. Then for instance, goal 1 would read: “Clean Air, addressing Global Climate Change and Environmental Stewardship”
- Comment 2. Section IV, number 2, page 9 and Section V, B.2, page 17: Both of these have discussions of cleaning up open dumps. We understand EPA’s definition of open dump to be quite narrow. We suggest consideration of criteria such as the dump proximity to surface and groundwater in defining open dumps. Many small dumps near water may have substantially more hazard potential than a large dump in an arid region.
- Comment 3. Section V, page 11, in reference to the third cross-program measure: “Ready for Anticipated Use Measure”. We support emphasis on cleanup goals that achieve “reasonably anticipated future land uses” in Indian Country.
- Comment 4. Section V, B.2, page 16, regarding EPA’s strategic Plan Goal, Objective 3.1, specifically the words “Reduce adverse effects to land by reducing waste generation...”: As part of the strategy to achieve this objective, we support an EPA led cross-program, multi-agency pilot project to internalize package and container costs.
- Comment 5. Section V, B.3, page 20, regarding Superfund Remedial office tribal priority bullet point 4: We support the revision of risk exposure criteria to include tribal specific natural resource uses and cultural activities such as those described in the Oregon State University Research Report “Traditional Tribal Subsistence Exposure Scenario and Risk Assessment Guidance Manual” published in 2007. Refer to EPA grant: EPA-STAR-J1-R831046.

Comment 6. Section V, B.3, page 21: We commend EPA for their production of the document “Consulting with Indian Tribal Governments at Superfund Sites”

Comment 7. Section V, B.4, regarding building tribal capacity through Brownfields grants: Building tribal capacity works but may not be swift. EPA’s strategies to achieve capacity building objectives must consider this.

Verbal Comments from tribal practitioner:

Regarding All Appropriate Inquiries (AAI): Encourage EPA-sponsored training to include consideration for BIA elements of AAI. Currently there are two different trainings for two different standards. It would also be helpful to consider regulatory compliance more broadly so that tribes can better understand the other liabilities outside CERCLA.

Good to see action to continue the Brownfields State and Tribal Measures workgroup. Continue to make allowances for tribal voices; tribes are sometimes hesitant to speak up.

Find ways to better communicate tribal opportunities with UST funding.

Stress “outside of EPA” focus for addressing emergency response issues. EPA’s message is getting out through NIMS training; emphasize funding opportunities under Department of Homeland Security and Federal Emergency Management Agency.

Continue to seek more formats for engaging tribes considering the different styles of governance among tribes, and interactions with tribes in remote areas. Cross program leveraging for tribal programs is important because there are various people working in many different programs. This creates opportunities for shared input and synergistic actions across programs which can be targeted to more fully address an issue.

Work more closely with tribes in establishing tribal measures as part of a grant. Project Officers can work more closely with tribes up front to determine what information a tribe may have and reflect that in an appropriate measure. Tribal recipients could be encouraged to take training on the “environmental scorecard” approach.

Focus on enforcement capacity. Tribes have different inherent authorities and that has implications for how enforcement is handled among tribes.

Stress education of tribal staff. Capacity building should include a “needs and skills assessment” for the tribal position, and improved skills in using software programs to conduct the work.

EPA Regional Tribal Program comments:

This document is very helpful in understanding the structure of OSWER and its six Offices. In reading through the document there were many questions brought to mind. These questions may appear along side of a comment in the hope that an answer to the question might clarify or enhance that particular area of the strategy.

Under Introduction (Section I):

- The last sentence of the first paragraph refers to areas of focus the Agency intends to support during the next five years. This statement appears to align this strategy with the Agency Strategic Plan cycle, which makes sense. It may be of value to state that and use the actual dates for the Agency's Strategic Plan (2009 – 2014).
- The third paragraph makes a reference to report annually on measures and indicators. A suggestion would be to report semi-annually and to clarify to whom the report would be made or how it may be viewed.
- Last paragraph seems to support the first comment that the alignment of this strategy with the Agency's Strategic Plan and tri-annual update period should be made clear. It would seem less useful to have this strategy cover the period from 2008 – 2012, when the Agency Strategic Plan will be revised this year to cover 2009 – 2014.

#### Under Overview... (Section II):

- Org chart and write ups are very helpful in understanding OSWER's structure. One very minor comment is it appears from the chart that all the regions go through FFRRO.
- In the write up about each Office it may be useful to mention who administers the funds for that Office (HQ or Regions).

#### Under EPA's Strategic Plan... (Section IV):

- The number 2 strategic target discusses the establishment of a zero Baseline. It would be more meaningful to start with an accurate inventory of open dumps as of a specific year and measure the number of dumps closed, cleaned up, or upgrade relative to that number.
- Statement in the last paragraph of this Section appears to support the above comment by the mention of "improving data" as a priority in the OSWER Action Plan leading to a better demonstration of progress and results for its tribal program.

#### Under OSWER Tribal Program...(Section V):

- Unclear as to the use of the three cross-program (within OSWER) measures, without baselines these appear to only capture activity not progress.
- Under the Program-Specific Goals section (V(B)):
  - o Continued references to improving tribal data and delineating tribal specific data will certainly lead to more accurate representation of the progress in Indian country.
  - o Integrated Waste Management Plans are key for tribes, but then there is a reduction from 06 to 07 of funds for OSW – seems inconsistent if this is an area of focus.
  - o Mentioned on page 18 of working with IHS to update the wSTARS/OMDS is very worthwhile and necessary if there is to be an updated inventory of open dumps.
  - o OBLR appears to have the most funds available. Is this funding available to implement programs after a tribe has established capacity? How does it work for a state?
  - o Would be great to have a web site for the AAI rule.
  - o Page 27, would be interesting to know where the 2600 USTs are by region.
  - o Also on page 27, reference to continuing to allocate part of EPA's LUST trust funds for Indian country. The recent difficulty experienced by Region 4 regarding competition of funds for Solid Waste work points to the need for clarification from OSW to ensure these funds are secured for their intended purpose.

- Page 28 show chart with percentage of UST facilities in Ic as 67% in 07. Didn't the recent report to Congress show the SOC in Ic at less than 50% and the rest of the country at 60+%?
- Page 30, first paragraph, last sentence – should the sentence read, "...Area and Sub-area Contingency Planning Committees..."?
- Page 31, in may be beneficial to check with IHS regarding emergency response, they do quite a bit for the tribes and it may not be limited to natural disasters.
- Page 36 – suggest inserting the word "national" in front of "tribal issues" as a charge of the IPPC.
- The charts showing Potential Funding Sources would be even more useful to understand where funds could come from within OSWER to sustain/implement programs versus building capacity with GAP funds.

OSWER and the Regions should work with tribal partners to assist in inputting data into w/STARS. Currently those tribes that have IHS compacted programs already enter their data directly into IHS databases. EPA has partnered with tribes to develop capacity to inventory open dumps. Tribes also directly submit data into EPA's other environmental data systems (AQS, STORET, WQX, etc). Tribes are also working on innovative ideas through EPA's Exchange Network to share open dump data.

The Region 6 tribal solid waste coordinator will be working with the IHS offices and tribal consortia located in Oklahoma and New Mexico to explore ways to allow the tribal consortia to directly input consortia member open dump data into w/STARS.

